



Legislative Department
Seattle City Council
Memorandum

Date: April 11, 2011

To: Councilmembers Sally J. Clark, Tim Burgess, and Sally Bagshaw
Committee on the Built Environment (COBE)

From: Martha Lester and Rebecca Herzfeld, Council Central Staff

Subject: April 13, 2011, COBE Meeting: South Downtown Zoning Proposal

Council Bill (C.B.) 117140, which was introduced on April 4, 2011, would amend the Land Use Code to revise zoning regulations in South Downtown. Resolution 31291, which is a companion work program resolution, was introduced on the same date. Votes on both pieces of legislation are scheduled for the April 13 meeting of the Committee on the Built Environment (COBE).

This memo presents six issues for discussion and possible vote:

1. Pioneer Square Height Limits
2. Limiting Additional Height on Historic Contributing Structures in Pioneer Square
3. Exempting Automotive Sales and Service from FAR Calculations in IC Zone
4. C.B. 117140 as Amended
5. Resolution Language About Pioneer Square Design Guidelines
6. Resolution 31291 as Amended

1. Pioneer Square Height Limits

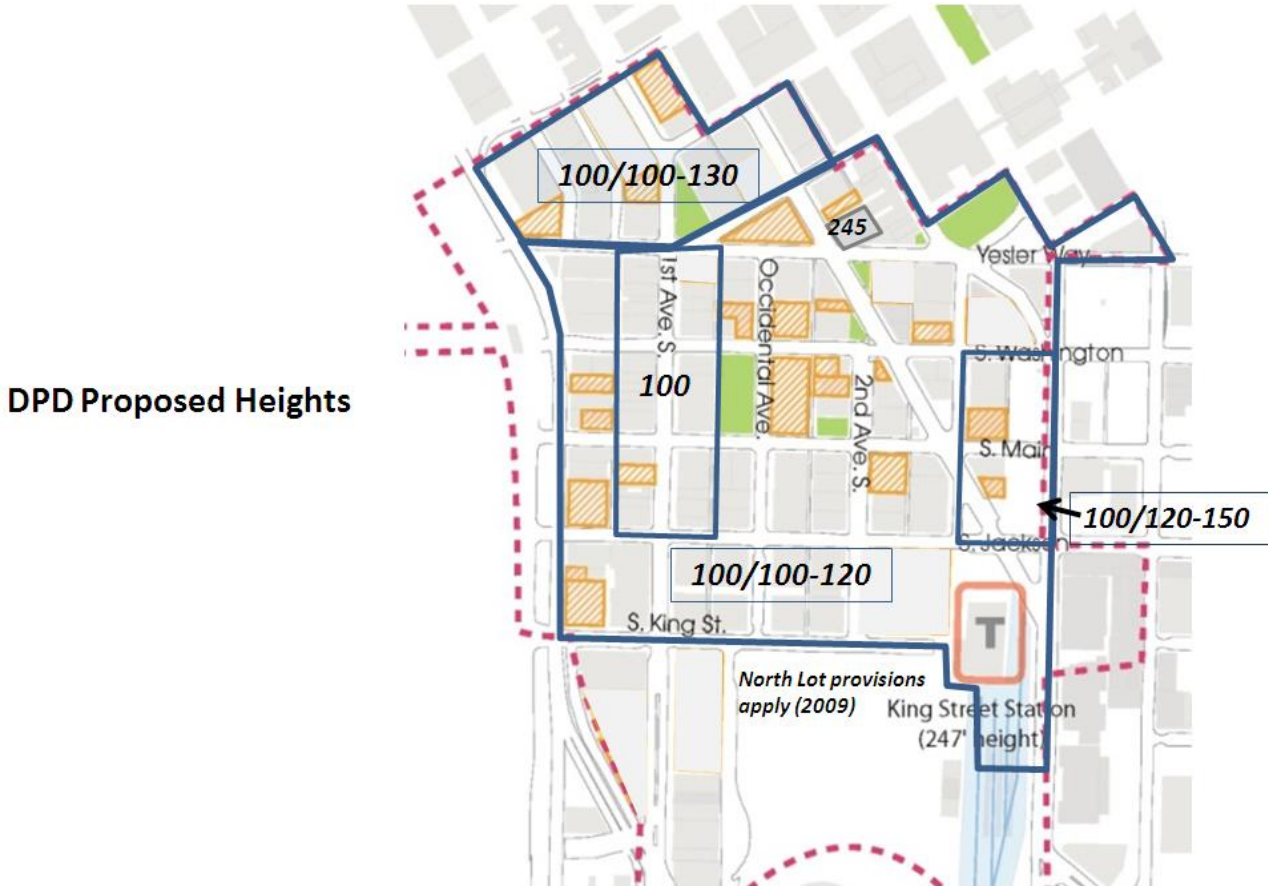
The height limit in the Pioneer Square Historic District (District) west of Second Avenue Extension S. is currently 100 feet, except that a structure may not be more than 15 feet taller than the height of the tallest structure on the block or the adjacent block front. This variable height limit results in a height limit that ranges from 75 to 100 feet (see Map A below).

Map A: Current Height Limits in Pioneer Square



The Department of Planning and Development (DPD) proposed that the height limit in Pioneer Square be changed from this variable height limit to a predictable base height limit of 100 feet. Except for the block fronts on either side of First Avenue South, height could be increased above the base height if the developer provides affordable housing, provides open space, and/or buys transferable development potential from an historic property in South Downtown (see Map B below).

Map B: DPD Proposed Heights in Pioneer Square

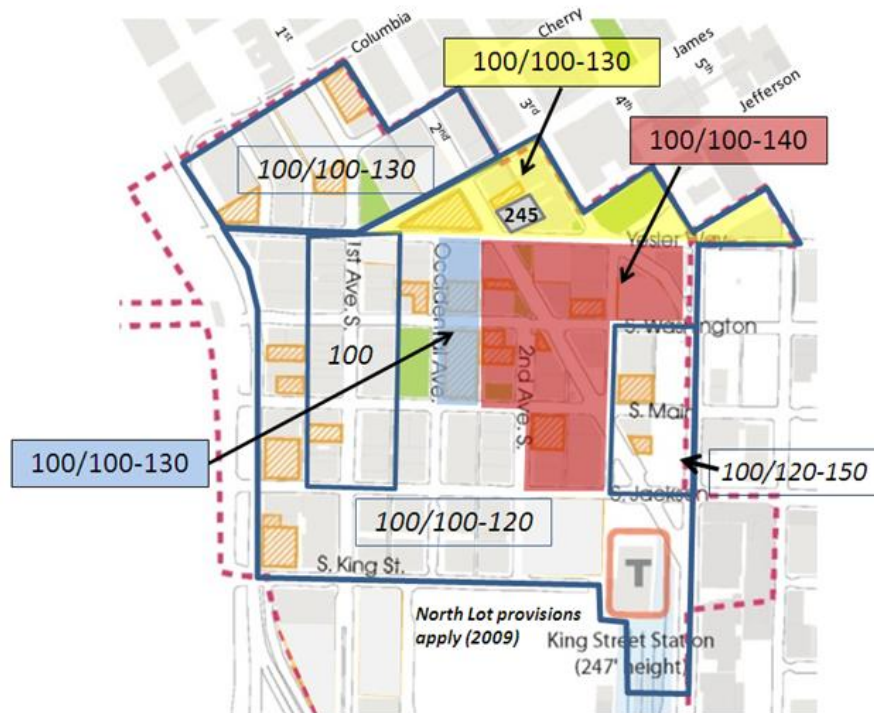


Between 2005 and 2009, the Pioneer Square Preservation Board worked with DPD as the proposal was developed, and supported the DPD-proposed height increases. The Board also suggested that a 15-foot building setback be required above 100 feet along street frontages in central Pioneer Square, to provide lower façade heights compatible with the scale of buildings surrounding Occidental Park. DPD included this requirement in its proposal.

During COBE’s review of heights in Pioneer Square, the Downtown Seattle Association and others commented that the heights proposed for the District were too low to encourage the construction of new market-rate housing that would help revitalize the area. They proposed a height limit of 180 feet in most of the District east of Occidental Avenue South and north of South Jackson Street “to make concrete and steel construction economically viable.”

At the March 9, 2011, COBE meeting, Councilmembers approved amendments (a) to increase the maximum heights in some areas of Pioneer Square to 130 feet or 140 feet (see Map C); and (b) to enlarge the geographic area in which upper-level setbacks are required for structures over 100 feet in height. The 140-foot height limits are on the east side of the District, where there is transition to the greater heights (up to 240 feet) proposed for east of Fourth Ave. S.

Map C
Pioneer Square Heights Approved by COBE March 9, 2011



After providing notice of these proposed height increases, the Council received many comments raising concerns about this proposal. Several of these comments raised concerns that the higher heights would erode the physical integrity of the historic District and risk the removal of the District from the National Register of Historic Places.

Dr. Allyson Brooks, the State's Historic Preservation Officer at the Department of Archeology and Historic Preservation, stated in her letter that "heights of 130 feet in the district will bring about a definite change in the scale and feeling of streetscapes and spaces [and] over time, the cumulative effect of too many buildings at this scale may result in the District being in danger of losing its National Register status." If the District is "delisted," property owners would no longer be eligible for federal rehabilitation income tax credits or tax credits for the donation of preservation easements. This would remove a source of funding that over two dozen properties have used successfully in Pioneer Square since the program began in 1982.

Other commenters pointed out that while an increase of 10 to 20 feet over the height limit proposed by DPD does not seem like a big change, the higher height limits represent a major difference when compared to the heights of the buildings that contribute to the historic character of the District. Because many contributing buildings in the area proposed for a 140-foot height limit are between 20 and 50 feet tall, a 140-foot building could be about three to seven times as tall. This again raises concerns about diluting the historic character of the District.

Those who oppose the 130-foot and 140-foot maximum heights also noted that while it is generally positive to step down heights toward the downtown waterfront, it does not work as

well to step down heights within the District moving west toward the historic core of the District along First Avenue South. They stated that “the fact that Pioneer Square is in downtown, where high rises predominate, does not diminish, but rather adds to its importance in contrast to later growth of the urban core.” It may be preferable to have a sharp edge to the District, where the low heights of the District meet the high rise buildings of adjacent downtown neighborhoods.

We recommend that the changes related to Pioneer Square heights made by COBE on March 9 be reversed, and that the height limit proposed by DPD be restored. The amendments on pages 7 to 11 would carry out this recommendation. In addition, the amendments would undo the enlargement of the area in which upper-level setbacks are required, because COBE’s enlargement of this area to include a block north of Yesler Way was considered a mitigating measure for increasing the height limit.

COBE vote:

2. Limiting Additional Height on Historic Contributing Structures in Pioneer Square

As noted above, the Council received many comments about the COBE-approved height increases in Pioneer Square. One of the questions asked by Dr. Brooks, the State’s Historic Preservation Officer, was whether the proposal would allow additions on top of historic buildings, which she stated would be a “major integrity concern.”

This issue is not addressed in the wording of the new height regulations in the proposed legislation. The Committee’s discussion about the appropriateness of higher heights focused on redevelopment of vacant parcels and parking lots, and not on additions to the tops of historic contributing buildings. But the code language currently in C.B. 117140 would not prohibit additions to the tops of historic contributing buildings. We do not believe that the Committee’s intent is to allow tall additions to historic buildings, and therefore recommend that the legislation be amended to prohibit additions to historic contributing structures above the base height of 100 feet unless the addition is to add back stories that were removed (the upper stories of several contributing buildings in Pioneer Square were taken down after the earthquake in 1949).

Specific amendment language is on page 12.

COBE vote:

3. Exempting Automotive Sales and Service from FAR Calculations in IC Zone

Under C.B. 117140, the area south of S. Charles Street, between 4th Avenue S. and I-5, would be rezoned to a new industrial commercial zone designation – IC 85-160. This area, within the Duwamish Manufacturing and Industrial Center, is a transition area between the more intensive industrial uses to the south and the commercial uses of the Downtown Urban Center to the north. One key use that would be allowed in this zone is automotive sales and service.

In this area, “street-level uses” are required at street level along particular streets that are anticipated to be more pedestrian-oriented than other streets. The list of eligible street-level uses includes traditional pedestrian-oriented uses such as general retail stores and restaurants, and for this zone the list also includes automotive sales and service as an eligible street-level use.

Most of the listed street-level uses would be exempt from floor area ratio (FAR) calculations, meaning that the square footage of the street-level use would not count toward the FAR limit for the site. In DPD’s proposal, automotive sales and service is not included in the list of street-level uses that would be exempt from FAR calculations.

If the Council wants to allow and even encourage automotive sales and service in this area, it may make sense to exempt this street-level use from FAR calculations, thereby allowing on a site a larger development that includes automotive sales and service as one of the uses. This amendment would accomplish this change by adding automotive sales and service to the list of exempt street-level uses in SMC 23.50.028.E. The specific amendment language is on pages 12 to 13.

COBE vote:

4. C.B. 117140 as Amended

If ready, you can vote on C.B. 117140 as amended.

COBE vote:

5. Resolution Language About Pioneer Square Design Guidelines

Resolution 31291, which would be a companion to C.B. 117140, was introduced on April 4, 2011. It declares the City’s intent to promote and enhance the livability of South Downtown by implementing initiatives that complement the zoning and land use changes in the ordinance.

COBE most recently discussed the resolution at the December 8, 2010, committee meeting, and the current draft was published with the agenda for the March 23 committee meeting. Discussion of the resolution at that meeting was postponed.

The initiatives listed in the resolution are divided into five categories: economic development; transportation; public safety and perceptions of public safety; parks, open space, and the pedestrian experience; and planning and development.

As a follow up to the discussion about height limits in Pioneer Square, we recommend an addition to the resolution. It would clarify the intent of the Council’s action to increase the height limits in the Pioneer Square Historic District, and add a work program item to the resolution calling for development of design guidelines for the District that address the possibility of taller buildings. The recommended addition is as follows:

New subsection E.4 in Resolution 31291:

The increased height limits in Pioneer Square adopted in Council Bill 117140 are intended to help revitalize the neighborhood by promoting the construction of market rate and workforce housing on vacant and underused lots (such as parking lots), while preserving the historic scale of the Pioneer Square Preservation District and the structures that contribute to the District's architectural or historic character. Subject to availability of funding, the Department of Neighborhoods will work with the Pioneer Square Preservation Board to develop guidelines for new construction that are more specific than the current Board Rules. The new guidelines would encourage the design of new development so that it adds vitality to the District, fits in the context of its site, contributes to the quality building stock of Pioneer Square, is welcoming to pedestrians, and reinforces Pioneer Square's unique character.

COBE vote:

6. Resolution 31291 as Amended

If ready, you can vote on Resolution 31291 as amended.

COBE vote:

Specific language for item 1 above – amend C.B. 117140 as shown below to undo the previous COBE changes related to height in Pioneer Square.

Amend Section 36 as follows:

Section 36. [Subsections A, B, C and D of](#) Section 23.49.178 of the Seattle Municipal Code, which section was last amended by Ordinance 123034, [are](#) ~~is~~-amended as follows:

23.49.178 Pioneer Square Mixed, structure height((:))

A. Maximum structure height is the applicable height limit designated on the Official Land Use Map, Chapter 23.32 except as provided in this Section 23.49.178.

B. Rooftop features and certain additions to structures are allowed to exceed the applicable height limit according to ~~((the provisions of))~~ subsection 23.66.140.C.

C. ~~((In the PSM 100/100-120 zone, ((:~~

~~1. Except as expressly allowed in this subsection 23.49.178.C a structure shall not exceed by more than 15 feet the height of the tallest structure on the block or the adjacent block front (s);~~

~~2. A)) a structure within which a streetcar maintenance base has been established may attain a maximum height of 130 feet if the structure has, in residential or hotel use, gross floor area equal to the gross floor area in the structure above 100 feet.~~

D. ~~((In the PSM 100 to 120 zone, structure height over 100 feet to a maximum of 120 feet is permitted if a minimum of 75 percent of the gross floor area of the structure is in residential use.))~~ In the PSM 100/100-120, PSM 100/100-130, ~~PSM 100/100-140~~, and PSM 100/120-150 zones, ~~except as provided in subsection 23.49.178.C~~, the applicable height limit is determined as set forth in this subsection 23.49.178.DC. The base height limit for nonresidential or live-work uses is the first figure after the “PSM” designation, and is the height limit for all portions of a structure that contain those uses unless all of the conditions of subsections 23.49.178.DC.1-5 are satisfied. The base height limit for residential use, shown as the first figure following the “/”, is the applicable height limit for a structure that contains residential uses and does not satisfy the conditions to exceed the base height limit under this subsection 23.49.178.DC. Subject to any limit imposed under Section 23.66.140, the third figure shown is the applicable height limit for a structure if all of the conditions to exceeding base height limits under this subsection 23.49.178.DC are satisfied. A structure may exceed the base height limits only if:

1. Construction does not involve the demolition or removal of any building or structure except as approved pursuant to Section 23.66.115;

2. No building or structure has been demolished or removed from the lot within the ten years immediately preceding application for a building permit for the structure or addition that would exceed an applicable base height limit unless the Director of Neighborhoods determines that the demolished or removed building or structure did not contribute to the architectural or historic character of the Pioneer Square Preservation District;

3. The gross floor area of the portion of the structure in residential use will equal or exceed the gross floor area in the portion of the structure above 100 feet;

4. The structure will use extra residential floor area available under Section 23.49.023 to gain all additional floor area above the base height limit for residential uses; and

5. The lot area is at least 7,200 square feet.

~~((E))~~D. In the PSM 85-120 zone:

1. The applicable height limit is 85 feet except as provided in subsections ~~((23.49.178.E.2 and 23.49.178.E.3))~~ 23.49.178.D.2 and 23.49.178.D.3.

2. The applicable height limit is 120 feet if a minimum of 75 percent of the gross floor area of the structure is in residential use, except as provided in subsection ~~((23.49.178.E.3))~~ 23.49.178.D.3.

3. The applicable height limit is 240 feet for structures located within the area identified on Map A for 23.49.180 if the structures comply with the provisions of Section 23.49.180.

Delete Section 37 as follows:

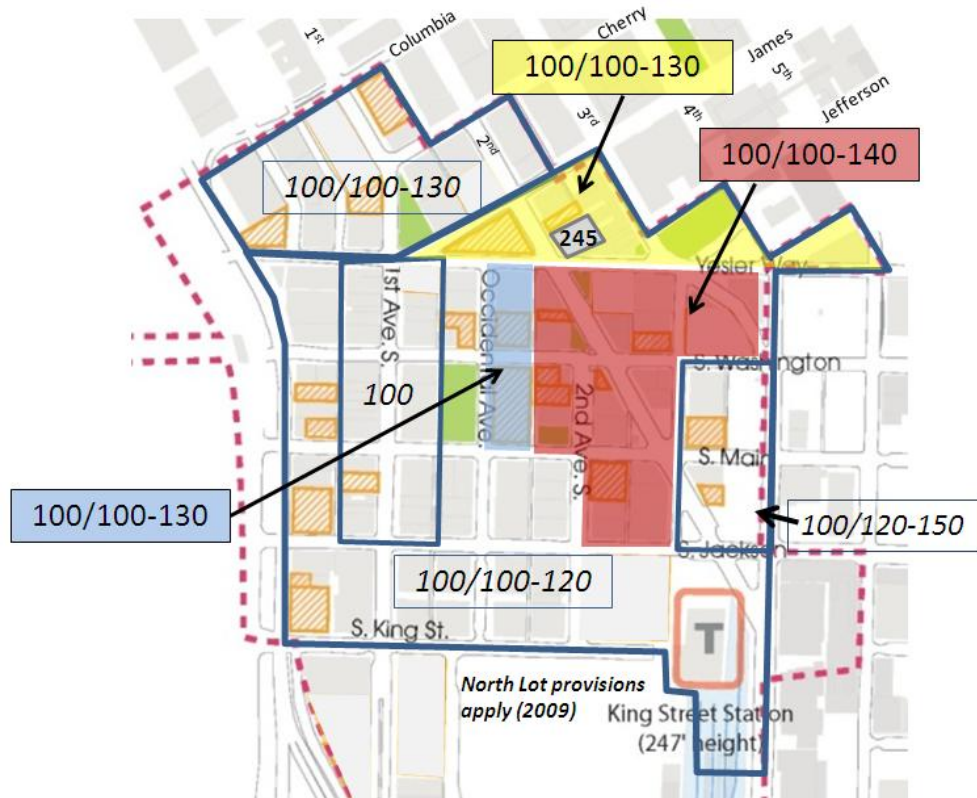
Section 37. Not used. ((Subsection A of Section 23.49.180, which section was enacted by Ordinance 123034, is amended as follows:

23.49.180 Additional height in the Pioneer Square Mixed 85-120 zone

A. General Intent. This section applies to the area identified on Map A for 23.49.180 within the Pioneer Square Preservation District if an applicant elects to develop a project using the height limits in ((Section 23.49.178.E.3)) subsection 23.49.178.D.3. The purpose of this section is to provide added flexibility through an increase in the maximum height limit to promote a high density, mixed use, and mixed income development that can contribute to the vitality of Pioneer Square.

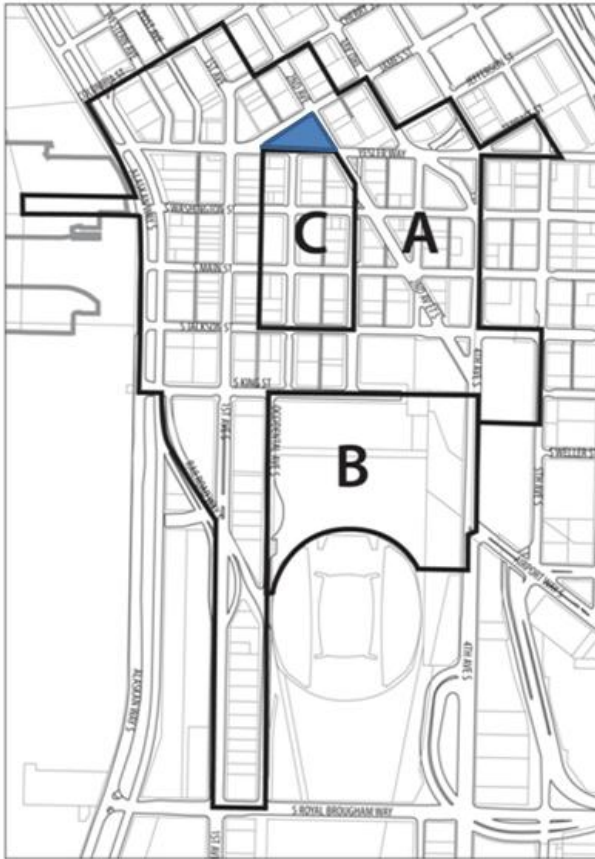
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Revise Exhibit A (Rezones West of Interstate 5) to undo the changes shown below in yellow, red, and blue and restore the height designation PSM 100/100-120 in those areas:



Revise Map C for 23.66.122 and 23.66.150 to delete from Subarea C the area shown in blue:

Map C for 23.66.122 and 23.66.150



Pioneer Square
Areas for Structure Setbacks

- A** Subarea A
- B** Subarea B
- C** Subarea C

Map C
23.66.122 and 23.66.150
Pioneer Square

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Specific language for item 2 above – limit additional height on historic contributing buildings in the Pioneer Square Historic District.

In C.B. 117140, add a new subsection to SMC 23.49.178 as follows and renumber subsequent subsections accordingly:

23.49.178 Pioneer Square Mixed, structure height((:))

* * *

[In the PSM zones (except for the North Lot, which has its own regulations), a structure may exceed the base height limits only if:]

* * *

3. No portion of the structure has been determined to be “contributing” pursuant to Section 23.66.032, except that additional height for contributing structures is permitted if the applicant can demonstrate, to the satisfaction of the Director of Neighborhoods, that the proposed height is no greater than the maximum height to which the contributing structure was built.

* * *

Specific language for item 3 above – amend Section 59 of C.B. 117140 as shown below to exempt street-level automotive sales and service uses from FAR calculations in IC 85-160 zone.

Section 59. Section 23.50.028 of the Seattle Municipal Code, which section was last amended by Ordinance 122611, is amended as follows:

23.50.028 Floor area ((ratio:)) limits

* * *

E. ((All Industrial Zones,))Exemptions from FAR Calculations.

1. The following areas are exempt from FAR calculations in all industrial zones:

((1))a. All gross floor area below grade;

((2))b. All gross floor area used for accessory parking, except as provided in subsection 23.50.028.F;

((3))c. All gross floor area located on the rooftop of a structure and used for any of the following: mechanical equipment, stair and elevator penthouses, and communication equipment and antennas; and

((4))d. All gross floor area used for covered rooftop recreational space of a building existing as of December 31, 1998 in an IG1 or IG2 zone, ~~((when))~~ if complying with ~~((the provisions of Section))~~ subsection 23.50.012.D(; ~~and~~).

* * *

3. In addition to areas exempt from FAR calculations in subsection 23.50.028.E.1, within an IC 85-160 zone, the following exemptions from FAR calculations apply:

a. Three and one-half percent of the total chargeable gross floor area in a structure, as an allowance for mechanical equipment. Calculation of the allowance is based on the remaining gross floor area after all other exempt space permitted in subsection 23.50.028.E is deducted.

b. For structures built prior to the effective date of this ordinance (introduced as Council Bill 117140), the area covered by new or replacement mechanical equipment placed on the roof.

c. All gross floor area for solar collectors and wind-driven power generators.

d. The gross floor area of the following uses located at street level, provided that the conditions of Section 23.50.039 are satisfied:

- 1) General sales and service uses;
- 2) Eating and drinking establishments;
- 3) Entertainment use;
- 4) Public libraries;
- 5) Childcare facilities; ~~and~~
- 6) Religious facilities; ~~and~~
- 7) Automotive sales and service.

* * *